

Appl. No. 10/720,531
Docket No. 00216-602002 / T716A
Amdt. Dated June 4, 2007
Reply to Office action mailed on March 29, 2007
Customer No. 27752

REMARKS

Claim Status

Claims 1-2, 7, 10, 15-16, 18, and 23-37 are pending in the application, of which 1-2, 7, 10, and 18 have been amended, and 23-37 are newly presented. To the extent that the amendments or newly presented claims depend on information not previously claimed such dependency is supported by the as-filed specification. For example, support for newly presented claims 23-24, 28-29, and 36-37 can be found on page 4, lines 28-29. No new matter has been entered.

Double Patenting Rejection

Claims 1-22 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly unpatentable over claims 1-26 of copending Application No. 10/914,427. Applicants are submitting a terminal disclaimer herewith to overcome this rejection.

Claim Rejection Under 35 USC § 112

Claims 1-22 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite due to the terms "including" and "includes." Applicants have amended claims 1 and 2, as shown above, to more clearly recite the intended claim language. These amendments are clarifying in nature, and thus, are not believed to narrow the scope of the claims in any way. Reconsideration and withdrawal of the Section 112 rejection are earnestly solicited.

Claim Rejection Under 35 USC § 103

Claims 1-22 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent 3,772,203 (hereinafter referred to as "Gray") in view of U.S. Patent 3,541,581 (hereinafter referred to as "Monson"). The applicant respectfully traverses this rejection because a prima facie case of obviousness has not been

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established when Gray's teachings are viewed in their entirety as required by MPEP § 2141.02(VI).

Independent claim 1 recites a two component shave product in which both components individually constitute a shave gel composition. Gray discloses a two-part system; however, in Gray's system, the oxidizing agent, along with another single ingredient (a stabilizer for the oxidizing agent), is stored separately from the base cosmetic formula (see the Examples and Column 2, lines 25-28). This separation and explicit design choice is taught in each and every one of Gray's examples (see Examples 2-15). Under MPEP § 2141.02(VI), Gray must be viewed in its entirety, including sections teaching away from the present invention. When viewed in its entirety, Gray teaches an oxidizing agent separated from the shave composition base formula, and thus, teaches away from the subject matter of independent claim 1. This flaw in the prima facie case is not remedied by the disclosure of Monson, rendering the claimed matter patentably distinct from these references.

Notwithstanding the argument above, dependant claim 7 is separably allowable over the applied references. Claim 7 recites that "the reducing agent is selected from the group consisting of thiosulfate and sulfite compounds, compounds with a thiourea backbone, and mixtures thereof." Gray relies upon sulfinic acids and sulfinates exclusively, making use of the foaming sulfonates which are created when sulfinates are oxidized (see Column 1, lines 57-60). Thus, Gray is silent with respect to the particular reducing agents recited in claim 7. And since Monson fails to remedy the shortcomings of Gray, the subject matter of claim 7 is patentably distinct from the applied references.

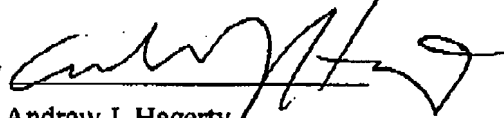
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Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied references. In view of the foregoing amendments and remarks reconsideration of this application and allowance of the pending claims are respectfully requested.

Respectfully Submitted,

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